

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

IN RE: DANNY LEE HUTCHENS
CYNTHIA SIMMONS HUTCHENS

#15-32597-SHB
Chapter 13

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at US Bankruptcy Court, 800 Market St., Ste. 330, Knoxville, TN 37902 an objection within thirty (30) days from the date this paper was filed and serve a copy on the Chapter 13 Trustee, PO Box 228, Knoxville, TN 37901 and the debtor(s)' attorney, Zachary S. Burroughs, 408 S. Northshore Dr., Knoxville, TN 37919-. If you file and serve an objection within the time permitted, the court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the court will consider that you do not oppose the granting of the relief requested in this paper and may grant the relief requested without further notice or hearing.

OBJECTION BY CHAPTER 13 TRUSTEE TO PROOF OF CLAIM
FILED BY CAVALRY SPV I, LLC-ASSIGNEE CAPITAL ONE NA

CAVALRY SPV I, LLC-ASSIGNEE CAPITAL ONE NA has filed a secured claim in the amount of \$6,810.33 for ; however, per the terms of the confirmed plan, this property is being surrendered and this creditor is entitled to receive payments under the plan only on an unsecured deficiency claim. The plan further provides that any amended deficiency claim in order to relate back to the original claim must be filed within one hundred twenty (120) days from the claim bar date unless the creditor seeks and is granted additional time within which to file an amended deficiency claim. The Chapter 13 Trustee, therefore, moves the Court for an Order directing no payments be made on this claim by the Trustee unless an amended deficiency claim is timely filed.

The Trustee does not seek to avoid the lien status, if any, of this creditor.

SUBMISSION AND CERTIFICATE OF SERVICE BY CHAPTER 13 TRUSTEE

Based on information and belief, the Chapter 13 Trustee hereby certifies the correctness of the facts contained in this Objection, Notice and Proposed Order and hereby certifies that a true and exact copy of the same has been serviced by electronic mail and/or by first class United States mail postage prepaid on the following individuals as addressed below this 18th day of February 2016.

/s/ Gwendolyn M. Kerney (by ml w/perm)
GWENDOLYN M. KERNEY, #07280
Chapter 13 Trustee
PO Box 228
Knoxville, TN 37901
(865) 524-4995

DANNY LEE HUTCHENS/ CYNTHIA SIMMONS HUTCHENS, DEBTOR(S)
117 UNION MOORES GAP ROAD
HEISKELL, TN 37754
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ZACHARY S. BURROUGHS
CLARK & WASHINGTON, LLC
408 S. NORTSHORE DR.
KNOXVILLE, TN 37919-

UNITED STATES TRUSTEE
800 MARKET STREET SUITE 114
KNOXVILLE, TN 37902

CAVALRY SPV I, LLC-ASSIGNEE CAPITAL ONE, NA
C/O BASS & ASSOCIATES
3936 E. FT. LOWELL ROAD, SUITE #200
TUCSON, AZ 85712-

6. **SECURED CREDITOR CLAIMS** shall be filed and administered in accordance with applicable Federal Rules of Bankruptcy Procedure, including but not limited to Rules 3001 and 3002.1. Per Local Bankruptcy Rule 3001-1 (a) and (b), all creditors asserting a security interest in property of the debtor(s) and/or estate must, prior to the meeting of creditors, file proof that the asserted security interest has been perfected in accordance with applicable law, regardless of whether the plan proposes to pay the claim by the Trustee or directly by the debtor(s). Claims are subject to objection if they are not properly documented and/or perfected regardless of confirmed plan treatment. Claims filed as secured but not given a secured plan treatment hereinafter shall be paid as unsecured.
7. **NON-PURCHASE MONEY SECURITY INTEREST** lien claims of the following creditors are avoided and paid as unsecured:
Republic (camera, blu-ray, sewing machine, 2 TVs)
8. **SECURED CLAIMS PAID BY THIRD PARTY.** The Trustee shall make no payments on the following secured lien claims which shall be paid directly by the designated individual; provided, however, in the event of non-payment by the designated individual, an amended deficiency claim shall be allowed unless provided otherwise.

<u>Creditor</u>	<u>Collateral</u>	<u>Designated Individual</u>
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9. **SURRENDERED REAL OR PERSONAL PROPERTY :** The debtor(s) surrenders the following collateral for sale/foreclosure by the secured creditor, and, unless noted otherwise, the creditor shall file and be paid an amended unsecured deficiency claim which shall relate back to a timely filed secured claim. In order for the amended deficiency claim to relate back to the original claim, the amended claim must be filed within one hundred twenty (120) days from the claims bar date unless the creditor during this time seeks and is granted additional time within which to file any amended deficiency claim.

<u>Creditor</u>	<u>Collateral</u>
Ally Auto Finance	2012 Dodge Ram 1500
Ally Auto Finance	2012 Dodge Ram 3500
Cavalry SPV I, LLC Capital One	2009 Yamaha Motorcycle
Republic Finance	Ozark Trail Tent

10. **LONG-TERM SECURED PERSONAL PROPERTY LIEN(S):** A long-term personal property lien (mobile homes or vehicles extending beyond plan term) exists in favor of _____. The secured creditor shall be paid a monthly maintenance installment per the claim, but said installment is estimated to be \$_____ per month; and, the estimated prepetition arrearage is \$_____ which shall be paid in full per the claim in monthly installments of \$_____ at _____% interest. This claim shall be paid _____ by the Trustee; or, _____ directly by the debtor(s). The lien shall survive the plan.
11. **SECURED PERSONAL PROPERTY CLAIMS:** The holders of the following secured liens shall be paid the secured amount, interest rate and monthly payment over the plan term. Any portion of the allowed claim exceeding the specified amount shall be paid as unsecured; provided, however, the lien securing the claim shall be retained until the earlier of: (a) payment of the underlying debt determined under non-bankruptcy law; or (b) discharge under 11 U.S.C. §1328. If this case is dismissed or converted prior to completion, the lien is retained to the extent recognized by applicable non-bankruptcy law. Secured creditors eligible under 11 U.S.C. §1326(a)(1)(C) for pre-confirmation adequate protection payments shall be paid \$50.00 a month until confirmation upon tendering the Trustee an adequate protection order.

<u>Creditor</u>	<u>Collateral</u>	<u>Amount</u>	<u>Payment</u>	<u>Interest Rate</u>
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Fill in this information to identify the case:

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10/08/2015 01/06/2016

Debtor 1 Cynthia Hutchens

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: EASTERN District of TENNESSEE
(State)

Case number 15-32597-SHB

Official Form 410

Proof of Claim

12/15

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?	<u>Cavalry Spv I, LLC - Assignee of Capital One, N.A.</u> Name of the current creditor (the person or entity to be paid for this claim)	
	Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. From whom? <u>Capital One, N.A. - Original Account ending in 9112</u>	
3. Where should notices and payments to the creditor be sent? Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)	Where should notices to the creditor be sent? <u>Cavalry Spv I, LLC</u> <u>c/o Bass & Associates, P.C.</u> Name <u>3936 E. Ft. Lowell Road, Suite #200</u> Number Street <u>Tucson, AZ 85712</u> City State ZIP Code Contact phone <u>(520) 577 - 1544</u> Contact email <u>info@bass-associates.com</u>	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Contact phone <u>(520) 577 - 1544</u> Contact email <u>info@bass-associates.com</u>
Uniform claim identifier for electronic payments in chapter 13 (if you use one): _____		
4. Does this claim amend one already filed?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM / DD / YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Who made the earlier filing? _____	

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: <u>6 2 2 5</u>
7. How much is the claim? <u>\$ 6,810.33</u>	Does this amount include interest or other charges? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8. What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. Goods Sold _____
9. Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: <input type="checkbox"/> Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . <input checked="" type="checkbox"/> Motor vehicle <input type="checkbox"/> Other. Describe: _____ Basis for perfection: <u>PMSI</u> Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.) Value of property: <u>\$ 3840.00</u> Amount of the claim that is secured: <u>\$ 3840.00</u> Amount of the claim that is unsecured: <u>\$ 2970.33</u> (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ % <input type="checkbox"/> Fixed <input type="checkbox"/> Variable
10. Is this claim based on a lease?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____
11. Is this claim subject to a right of setoff?	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)? ☒ No

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Yes. Check all that apply:

	Amount entitled to priority
<input type="checkbox"/> Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
<input type="checkbox"/> Up to \$2,775* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
<input type="checkbox"/> Wages, salaries, or commissions (up to \$12,475*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
<input type="checkbox"/> Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
<input type="checkbox"/> Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
<input type="checkbox"/> Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/16 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

- ☐ I am the creditor.
- ☒ I am the creditor's attorney or authorized agent.
- ☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.
- ☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 01/05/2016
MM / DD / YYYY

/s/ Rita Torres
Signature

Print the name of the person who is completing and signing this claim:

Name	<u>Rita Torres</u>		
	First name	Middle name	Last name
Title	<u>Administrative Assistant</u>		
Company	<u>Bass & Associates, P.C.</u>		
	Identify the corporate servicer as the company if the authorized agent is a servicer.		
Address	<u>3936 E. Ft. Lowell Road</u>		
	Number	Street	
	<u>Tucson</u>	<u>AZ</u>	<u>85712-1083</u>
	City	State	ZIP Code
Contact phone	<u>(520) 577 - 1544</u>		Email <u>info@bass-associates.com</u>